



PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PETITION FOR MODIFICATION OF CLAIM OF PRIORITY

Applicant: Roger P. Jackson

Serial No.: 10/649,412

Date: May 30, 2006

Filed: August 27, 2003

Group Art Unit: 3733

Exam: Richard R. Shaffer

For: THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE

Kansas City, Missouri

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It has been determined that the previous claim of benefit of priority under 35 U.S.C. 120 was in error.

Enclosed herewith is a Supplemental Declaration for the application and a corrected Data Sheet correcting the priority.


Applicant hereby petitions for the benefit of the corrected priority as an unintentionally delayed benefit claim under 35 U.S.C. 119(e).

The entire delay between date the claim was due and the present was unintentional. In particular, the original claim included a typographical error that was noticed only recently in association with amendment of the application.

The fee of \$1370 under 37 C.F.R. 1.17(t) is submitted herewith. Please charge any additional fees or mark any refund of overpayment to Deposit Account No. 50-1253.

Respectfully Submitted,

JCM:lm
PO Box 30069
Kansas City, Missouri
64112
Phone: (816) 531-3470



John C. McMahon
Reg. No. 29,415
Attorney

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Mail Stop Petition
Commissioner For Patents,
P.O. Box 1450,
Alexandria, VA 22313-1450 on
May 30, 2006.

Roger P. Jackson
(Applicant)

By 

May 30, 2006

(Date of Signature)



SUPPLEMENTAL DECLARATION
FOR A CONTINUING PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE, Serial No. 10/649,412.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Sec. 1.56. (Under Sec. 1.56 information is material to patentability when it is not cumulative to information already of record before the Patent and Trademark Office with respect to the present application and it establishes either by itself or in combination with other information a prima facie case of unpatentability of a claim or it refutes or is inconsistent with a position taken in opposing an argument of unpatentability relied upon by the Patent and Trademark Office or in asserting an argument of patentability.

Under this section a prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.)

I hereby claim the benefit under Title 35, United States Code, Sec. 120, of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code, Sec. 112, if any, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Sec. 1.56, which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
09/729,600	December 4, 2003	Patented, No.6,440,170
09/644,722	August 23, 2000	Patented, No.6,666,888

I hereby state that, as to subject matter of this

application which is common to said earlier applications, I do not know and do not believe that the invention was ever known or used in the United States of America before my invention thereof; and that to the best of my knowledge and belief the invention had not been in public use or on sale in the United States of America more than one year prior to the first of said prior applications in which said common subject matter was disclosed, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the first of said prior applications in which said common subject matter was disclosed or patented or made the subject of an inventor's certificate issued before the date of the first of said prior applications in which said common subject matter was disclosed in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the first of said applications in which said common subject matter was disclosed; and that no application for patent or inventor's certificate on said invention had been filed before the first of said prior applications in which said common subject matter was disclosed in any country foreign to the United States of America by me or my legal representatives or assigns, except as listed above.

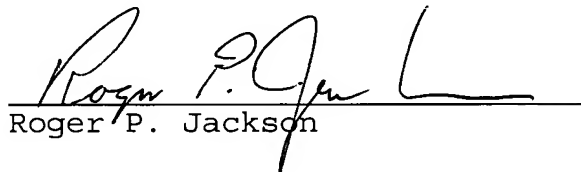
I hereby state that, as to the subject matter of this application which is not common to said earlier applications, if any, I do not know and do not believe that the invention was ever known or used in the United States of America before my invention thereof; that to the best of my knowledge and belief the invention has not been in public use or sale in the United States of America more than one year prior to this application, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, or patented, or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application; and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns.

I hereby appoint John C. McMahon, Reg. No. 29,415, member of the bar of the State of Missouri, whose postal address is PO Box 30069, Kansas City, Missouri 64112, telephone (816) 531-3470, as my attorney, with full power of substitution, to prosecute this

application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith in my behalf.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 5-10-06


Roger P. Jackson

Residence: 4706 W. 86th Street

Post Office

Address: Prairie Village, Kansas 66207

Citizenship: United States of America



CORRECTED DATA SHEET

Applicants - Inventors

- 1) First Inventor: Roger P. Jackson
4706 W. 86th Street
Prairie Village, Kansas 66207

Citizenship: United States of America

- 2) Correspondence Address:

John C. McMahon
PO Box 30069
Kansas City, MO 64112

- 3) Title of Invention: THREADED DEVICE FOR IMPLANTATION BETWEEN
VERTEBRAE

Suggested Classification: Class _____ Subclass _____

Technology Center _____

Total Number of Drawing Sheets 2

Docket No. 10,321

Type of Application: Utility

- 4) Attorney: John C. McMahon
Address: PO Box 30069
Kansas City, MO 64112
Telephone: (816) 531-3470

Attorney Reg. No. 29,415

- 5) Domestic Priority:

Application Serial No. 09/729,600, filed December 4, 2003, now Patent No. 6,440,170
and Application Serial No. 09/644,722, filed August 23, 2000, now Patent No. 6,666,888

- 6) Foreign Priority:

None

- 7) Assignee:

None